

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

November 18, 2005

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

SUBJECT: Briefing to the Board on the Forfeiture of Lease S-5288,
Ahupua'a 'O Kahana State Park, O'ahu

The Land Board forfeited residential lease S-5288 to Keith George on January 28, 2005 because of failure to bring his house into compliance with the building code and an unresolved default of -1,509 hours of interpretive service. Because Mr. George was out-of-state when the Board acted, the Native Hawaiian Legal Corporation (NHLC), on behalf of Mr. George, requested an opportunity to appear before the Board. This occurred on July 22, 2005. At this meeting, the Board gave Mr. George 90 days to accomplish the following:

1. Bring his house up to code. When Mr. George signed his residential lease in 1993, it was agreed that he could retain his existing house if he conducted the necessary renovation and construction to bring the structure into compliance with the building code.
2. Prepare a plan to resolve his default in interpretive hours and this plan would be subject to review and approval by the Chairperson of the Board.

A letter was sent to Mr. George on August 22, 2005 with a copy to NHLC, in which Chairperson Young confirmed the Board's expectations and a deadline of October 22, 2005 (Attachment 1). Mr. George did not contact State Parks within the 90-day period to discuss his situation, but staff from NHLC met with State Parks on October 20. State Parks reiterated the guidelines presented in the Chairperson's August 22 letter to Mr. George. Based on discussions with Mr. George and State Parks, the NHLC submitted a proposed plan on October 21, 2005 (Attachment 2).

It does not appear that Mr. George made any effort to bring his house up to code within the 90-day period. The proposed plan failed to recognize the guidelines for interpretive activities suggested by DLNR and does not indicate a desired level of performance. In the plan, Mr. George would be conducting some activities that are considered park maintenance and the growing of plants would continue to be in an area adjacent to his lease lot which is difficult for State Parks to monitor and can easily be confused with yardwork.

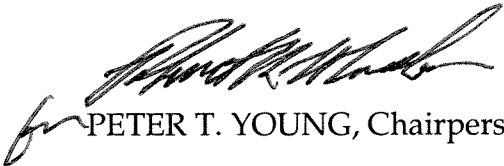
The general lack of performance by Mr. George since the signing of his lease, and more specifically since the initial forfeiture of his lease in 2000, does not indicate that Mr. George will fulfill the requirements of his lease, either now or in the future. He has failed to make any progress in bringing his house up to code and his plan to resolve his default in hours lacks activities and commitment that will allow him to resolve the default within a year. Other residents have resolved substantial defaults within a year, but Mr. George has not presented a plan that suggests he is willing or able to do so.

Respectfully submitted,



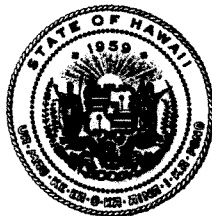
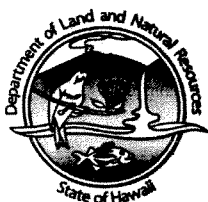
DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 22, 2005

Mr. Keith George
P.O. Box 189
Ka'a'awa, Hawai'i 96730

Dear Mr. George:

At the July 22, 2005 meeting of the Board of Land and Natural Resources, the Board gave you 90 days or until October 22, 2005 to bring your house at Ahupua'a 'O Kahana State Park up to code and to develop a plan to resolve your default of 1,509 in interpretive hours. Your plan will be subject to my review and approval. If you do not bring your house up to code and do not have an acceptable plan to resolve your default in hours, the forfeiture of your lease will be implemented. A copy of the minutes from the July 22 meeting is attached for your reference.

While working with other lessees in default, guidelines for the resolution of interpretive hours have been established by State Parks and the Kahana Kokua Committee. These guidelines should be followed in the development of your plan for resolving your default in interpretive hours.

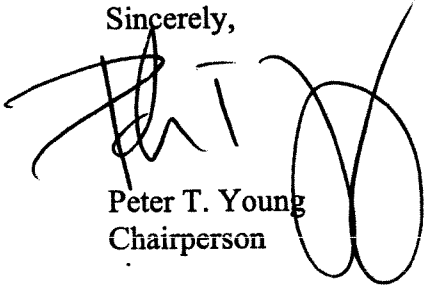
- Act 5 states that the Kahana interpretive program is to have a public benefit. Exhibit C of the lease states that these programs will be scheduled and open to the public. Exhibit C also states that each lessee shall be able to perform two programs. Therefore, your plan should address two programs that can be scheduled and offered to park visitors on a regular basis.
- Exhibit C states that park maintenance is not acceptable for interpretive hours. Maintenance of interpretive sites will be credited for up to 75% of your reported hours while you remain in serious default. The other 25% of your hours should involve sharing the site through a park program or participating in another public park program.
- At a very minimum, you should be performing and reporting 200 hours a month to resolve your default within a year. This includes the 25 hours you need to perform each month and 175 hours towards resolution of your default.
- You may use other family members to assist you in programs and the performance of hours. However, you must be an active participant in these programs along with the family members and the program should be conducted under your direction.

Mr. Keith George
August 22, 2005
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- If you develop a program around plants, you should work with State Parks to establish a garden area off your house lot and the plants should be ones that can be used in a public program. Our experience has been that the gardens on house lots are not readily accessible to the public and it is difficult to separate gardening for programs from yard work.
- Back hours will not be credited. In October 2003, all lessees were given the opportunity to submit any back hours until December 31, 2003. Since January 2004, there has been a policy of no back hours.

I encourage you to work with State Parks on developing an acceptable plan for resolving your default. You may contact Kaliko Plomer, Kahana Interpretive Center Coordinator, at 237-7766 or Martha Yent, Parks Interpretive Program Supervisor, at 587-0287 to discuss your program ideas.

Sincerely,

A handwritten signature in black ink, appearing to be 'Peter T. Young', written over a horizontal line.

Peter T. Young
Chairperson

Attachment

cc: Nicole Lehua Kinilau, Native Hawaiian Legal Corp.



NATIVE HAWAIIAN LEGAL CORPORATION

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October 21, 2005

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Peter Young, Chairperson
Board of Land & Natural Resources
Post Office Box 621
Honolulu, HI 96809

Re: Keith George

Dear Mr. Young:

On behalf of Mr. Keith George, I am writing in response to your August 22, 2005 letter addressed to Mr. George, which discusses the Board of Land and Natural Resource's decision to forfeit Mr. George's lease at Ahupua'a 'O Kahana State Park. In your letter, you affirmed the Board's decision to allow Mr. George 90 days or until October 22, 2005, to bring his residence up to code and develop a plan to resolve his default of 1509 interpretative hours. Additionally, you communicated that this plan would be subject to your review and approval.

As required by the Board and yourself, submitted for your consideration is a plan to address Mr. George's lease deficiencies.

THE PROPOSED PLAN

A. MAKEUP OF INTERPRETIVE HOURS

After a careful consideration of different activities that could potentially satisfy the interpretive hour requirement, we have determined that Mr. George would be most capable in performing the following activities.

- 1) Care and maintenance of nursery and plants located on the larger plot that surrounds Mr. George's residence

Mr. George's residence is surrounded by a larger portion of land that he does not own, but has nevertheless maintained through the years. Within this larger piece of land, exists a plant nursery and various types of plants, both native and non-native. Mr. George will devote a portion of his outstanding interpretative hours towards maintaining and upkeep of the nursery and the various plants outside of his property. Mr. George's plan would also involve relocating these plants to other areas of the valley more visible to general public. We believe that this work would further the overall goal of beautifying Kahana Valley.

Services made possible with major funding from the Office of Hawaiian Affairs.

 LSC

- 2) Landscaping, maintenance, and educational efforts directed towards plants and vegetation of interpretive sights throughout Kahana Valley Park

Mr. George is also willing to contribute towards the landscaping and maintenance of various plants and vegetation throughout Kahana Valley, including areas of the park that are frequently visited and visible to tourists, including campsites, roadways within the valley, as well as other common areas of the park that have exotic plants and flowers. Because Keith is knowledgeable and skillful in planting and caring for both native and non-native plants that exist in Kahana, he would like the opportunity to teach and educate visitors by periodically providing tours and educational sessions focused towards appreciating traditional native Hawaiian practices of caring for the land through planting.

- 3) Work on the auwai closely located to Mr. George's house

In the back portion of Mr. George's property exists a river that he would like to clean and maintain. Additionally, Mr. George also plans to beautify the river by planting various native plants along the boundaries of the river.

- 4) Work in Kahana Valley's fishpond

Lastly, Mr. George would like to work toward restoring and maintaining Kahana Valley fishpond. He has goals of not only maintaining the fishpond, but also conducting educational sessions focused on teaching traditional customs and practices related to native Hawaiian use of fishponds.

Because Mr. George has 1509 outstanding interpretative hours, we understand that it will take some time before he ultimately completes the hours. In assessing and apportioning the interpretative hours he most complete per month, we have also had to take into account his full time employment. My understanding is that Mr. George is employed in a position that requires him to work, at a minimum, a 40 hour week. We have determined that the only available times that Mr. George is able to engage in these outstanding interpretive hours would be during the weekends and for a few hours each day after he arrives home from work. Although we are aware that in your letter to Mr. George, you indicated that he should be performing at a minimum, 200 hours per month, we would ask that you reconsider and allow Mr. George to perform 80 hours per month. This would be a more realistic and viable estimation of the amount of hours Mr. George could complete monthly if he were to complete those outstanding hours on his own.

In addition, although Mr. George will complete many of these hours on his own, we would request that his family and friends be allowed to assist him in this effort. We have contacted numerous family members and friends of Mr. George who are committed and in support of Mr. George's plan to cure his default on his lease. In addition to family members and

friends, it is Mr. George's plan that he will make up these hours in coordination with the assistance from those in the greater Oahu community. The Native Hawaiian Legal Corporation has secured the participation of various community groups, organizations, and individuals who, should this plan be accepted, will volunteer and contribute their time to ensure that Mr. George complies with the terms of his lease. Organizations that have committed to this include various Oahu canoe clubs, notably Kailua Canoe Club, students from the Ahuihui o Hawaii, a law school student organization from the University of Hawaii Law School, students from the Department of Hawaiian Studies at the University of Hawaii, and numerous other individuals. If family members, friends, and outside volunteers are allowed to assist with this effort, Mr. George, along with the assistance of the Native Hawaiian Legal Corporation, will conduct, coordinate, and actively participate in any activity or program that would be organized.

We are aware that the lease emphasizes that lessees and family members should normally be engaging in interpretative hours in Kahana, however, in light of the extraordinarily large amount of hours outstanding, we would request that non-valley residents be allowed to assist Mr. George in his effort. This would allow Mr. George to make up his hours more expeditiously and efficiently.

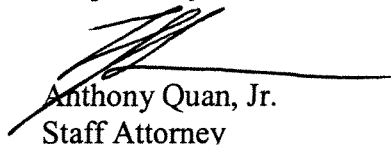
We believe that the above mentioned plan is within the spirit, intent, and purpose of the creation of a "cultural living park" which Kahana Valley has been designated. We believe that the plan serves to beautify Kahana Valley, educate individuals about traditional native Hawaiian practices and ways of life, and ultimately promotes a sense of community.

B. BRINGING RESIDENCE IN COMPLIANCE WITH CODE

Native Hawaiian Legal Corporation is currently securing the necessary funding and other resources from, among other entities, the Office of Hawaiian Affairs to make Mr. George's home code compliant. Once funding and other necessary resources are secured, work will commence to bring Mr. George's home into compliance.

Thank you for your consideration and understanding with Mr. George's circumstance. If you have any further concerns, please feel free to contact me at (808) 521-2302. Additionally, I would be happy to meet with you in person to discuss this plan. I hope to hear from you soon.

Respectfully,



Anthony Quan, Jr.
Staff Attorney

AQ:mr

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

November 18, 2005

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

SUBJECT: Briefing to the Board on the Status of the Interpretive Program at
Ahupua'a 'O Kahana State Park, O'ahu

During the meeting held on July 22, 2005, the Land Board requested a status report on the Interpretive Program at Ahupua'a 'O Kahana State Park. This request came after testimony was presented by a number of Kahana residents and lessees in conjunction with the forfeiture of a residential lease because of an unresolved default in the performance of interpretive hours. The 31 residential leases at Kahana require each lessee to provide 25 hours of interpretive service each month. A 1999 report on the interpretive program by the Kahana Advisory Committee identified acceptable activities for these hours.

A status report prepared by State Parks has been provided to each Board member. Included in this report is a 2005 evaluation of the interpretive program by the Kahana Advisory Committee. To summarize, some of the major points in the status report are as follows:

- Despite 35 years as a "cultural living park", Kahana lacks a well-defined, stable, reliable interpretive program in which all lessees are active participants. State Parks and the residents have not developed a program that both parties are committed to carrying out for the public.
- Lessees tend to work independently on their own cultural programs, rather than working together on one or more "park programs".
- 50% of the lessees are performing and submitting hours on a regular basis.
- 50% of the lessees are in default on the performance of their hours. Two (2) lessees are considered in serious default (over a year behind) and stand to have their lease forfeited.
- Only 6 lessees (21%) are involved directly with public programs, which includes interacting the public, offering programs for schools, and providing cultural demonstrations in the park.
- About 50% of the lessees have programs centered around the growing of plants, but most of this cultivation lacks a program element where the plants are used in a public program.

- Scheduling of programs around the availability of residents has proven to be difficult, especially for school programs that occur during the week.
- State Parks has tried to provide residents with additional interpretive, cultural, and economic opportunities through the construction of the Kahana visitor center, which is a reconstruction of the historic Kam Mon Store. Resident interest and participation in this project has been minimal.
- A clear definition of acceptable cultural activities for hours is still evolving, which creates problems for monitoring the performance of hours by State Parks and accusations of unfairness by lessees. Some residents continue to submit hours for what State Parks considers to be park maintenance, rather than interpretive program.

State Parks and residents both recognize the difficulties in creating an interpretive program that meets the spirit and intent of a "cultural living park" and also respects the skills, abilities, and knowledge of the residents. As a new generation steps forward with the responsibilities for this program and the performance of the 25 hours, there appears to be a loss of cultural knowledge, the lack of a shared vision for the program, and less interest and willingness to participate in public programs.

Following the July 22, 2005 Board meeting, State Parks staff met with the Kahana Community Association and other residents. Concerns and issues were raised during these meetings. The Kahana Community Association has expressed its desire to share their concerns with the Board.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson